



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Automatic Screw Machine Products Company

File: B-238583; B-238584

Date: June 1, 1990

Robert H. Harris, Esq., Harris, Caddell & Shanks, P.C., for the protester.
John P. Patkus, Esq., Defense Industrial Supply Center, for the agency.
Scott H. Riback, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

The General Accounting Office will not review an affirmative determination of responsibility absent a showing of possible bad faith or fraud or misapplication of definitive responsibility criteria.

DECISION

Automatic Screw Machine Products Company (ASMPC) protests the award of purchase order Nos. DLA500-90-M-8385 and DLA500-90-M-7532 to Pro Technical Products, Inc., and Elkay Fastner, Inc., respectively. The purchase orders are for the furnishing of specified quantities of two types of hexagonal nuts. ASMPC argues that the awardees cannot furnish the nuts in accordance with the requirements of the applicable military specification.

We dismiss the protests.

The subject acquisitions are for two types of hexagonal nuts which must be fabricated and inspected "in accordance with MIL-S-1222H." Both types are described as requiring "class 2B" threads. In its original letter of protest, ASMPC alleged that neither awardee has the necessary gaging equipment to furnish the nuts in accordance with the specified military specification, given the prices which the awardees have quoted. Specifically, ASMPC alleged that the military specification in question required manufacturers to

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inspect the thread of the furnished nuts using "method B" or "variables" gaging.^{1/}

In its initial response to our Office, the agency argued that method B or variables gaging was not required by the subject military specification where a class 2B thread product was being furnished. However, the agency subsequently submitted a statement written by the chief of its technical services division which provided that, under MIL-S-1222H applicable to the subject solicitations, gaging by variables was required. In addition, the agency furnished materials submitted by both awardees wherein both firms affirmatively indicate that they have the capability to meet specification requirements for gaging by variables.

We view ASMP's protest, which basically questions the awardees' ability to comply with the specifications, as a challenge to the contracting officer's affirmative determinations of responsibility. Under our Bid Protest Regulations, 4 C.F.R. § 21.3(m)(5) (1990), we will not review a challenge to a contracting officer's affirmative responsibility determination absent a showing of possible fraud or bad faith or a failure to properly apply definitive responsibility criteria. See, e.g., The Forestry Ass'n, Inc., E-237225.2, Nov. 17, 1989, 89-2 CPD ¶ 476.

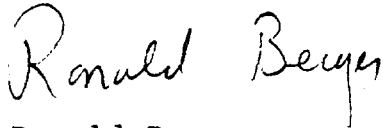
Here, both awardees were found responsible. Neither awardee has taken exception to the specifications and both have clearly indicated that they or the manufacturer of the item have the capacity to perform variables gaging, which all parties agree is required by the terms of the purchase order.^{2/} As ASMP has offered no evidence to challenge the awardees' submissions to the agency concerning their intent to meet the specifications, we see no basis to question the

^{1/} Variables gaging is a new electronic inspection system of threads by gages which provide readings of actual feature size to ensure compliance with dimensional specifications.

^{2/} We note that a trade journal article on variables gaging furnished by the protester indicates that variables gaging is required by the military specification at issue, but also states that there is not currently an agreed-to method of verifying compliance with certain features of the gaging equipment.

contracting officer's affirmative determinations of responsibility. Moreover, to the extent that ASMPC's protests amount to an allegation that the awardees will not in fact meet the gaging requirements, we view its protest as one which goes to a question of contract administration which we will also not review. 4 C.F.R. § 21.3(m)(1).

We dismiss the protests.3/



Ronald Berger
Associate General Counsel

3/ The protester also objects to the fact that the awardee under purchase order DCA500-90-M-7532 did not submit its quote on the standard government form 18, request for quotations. However, under the Federal Acquisition Regulation § 13.107 (FAC 84-29) governing the small purchase procedures used here, use of this form, while designed for small purchases, is not mandatory.